

**IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION  
1:13-cv-008**

<b>FRED ALLEN,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>vs.</b>	)	
	)	
<b>NORCOLD, INC., HARBERSON RV-</b>	)	<b>ORDER</b>
<b>PINELLAS, LLC and NEWMAR</b>	)	
<b>CORPORATION,</b>	)	
	)	
<b>Defendants.</b>	)	
<hr style="width:40%; margin-left:0;"/>	)	

**THIS MATTER** is before the Court *sua sponte* to ascertain subject matter jurisdiction.

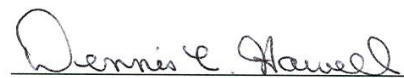
The Defendant Newmar Corporation removed this action from state court based upon diversity jurisdiction (#1). In the Complaint, Plaintiff alleges that Defendant Harberson RV-Pinellas, LLC is a corporation organized under the laws of the state of Florida.

Courts have an affirmative duty to question subject matter jurisdiction even when the parties have not done so. Interstate Petroleum Corp. v. Morgan, 249 F.3d 215 (4<sup>th</sup> Cir. 2001); Plyer v. Moore, 129 F.3d 728, 732 n.6 (4th Cir. 1997), *certiorari denied* 524 U.S. 945, 118 S.Ct. 2359, 141 L.Ed.2d 727 (1998); 28

U.S.C. §1447(c)(“If at any time before final judgment it appears that the district court lacks subject matter jurisdiction, the case shall be remanded.”). A limited liability company is a citizen of all states in which its constituent members are citizens. Carden v. Arkoma Associates, 494 U.S. 185, 110 S.Ct. 1015, 108 L.Ed.2d 157 (1990). The Defendant Harberson RV-Pinellas, LLC has not disclosed whether it has constituent members or partners and where those constituent members or partners have their citizenship and therefore will be required to do so.

**IT IS, THEREFORE, ORDERED** that on or before March 18, 2013, the Defendant Harberson RV-Pinellas, LLC shall file a response disclosing the names and citizenships, if any, of all the constituent members or partners of the above referenced LLC and for any such constitute member or partners that are limited liability companies or partnerships, to identify the citizenships of the respective constituent members or partners until all such constituents are fully identified.

Signed: February 25, 2013



Dennis L. Howell  
United States Magistrate Judge

